

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 3, 5, and 7 are pending in the present application. No claims are amended by the present amendment, thus, no new matter is added.

In the outstanding Office Action, Claims 1, 3, 5 and 7 were rejected under 35 U.S.C. § 103(a) as unpatentable over Japanese publication 60-254432 (herein Jap. Pub. '432) in view of Kouchiyama (U.S. Pat. Pub. No. 2004/0170916), Chaiken et al. (U.S. Pat. No. 5,691,091, herein "Chaiken") or Japanese Publication 2003-315988 (herein "Jap. Pub. '988").

Addressing now the rejection of Claims 1, 3, 5 and 7 under 35 U.S.C. §103(a) as unpatentable over Jap. Pub. '432 in view of Kouchiyama, Chaiken and Jap. Pub. '988, Applicants respectfully traverse this rejection.

Claim 1 recites, in part,

exposing an inorganic resist layer, said inorganic resist layer including an incomplete oxide of tungsten and molybdenum in a ratio of 80 to 20 and including 60 percent atomic oxygen, formed on a substrate to recording laser light modulated by an information signal corresponding to an information signal of an information concave and convex pattern formed on said optical disc to form an exposed pattern corresponding to said information concave and convex pattern of said optical disc.

Claim 5 includes similar features with regard to the inorganic resist layer including an incomplete oxide of tungsten and molybdenum in a ratio of 80 to 20 and including 60 percent atomic oxygen.

Jap. Pub. '432 describes a laser light irradiated upon a photosensitive film after the film is exposed from a helium-neon light source.¹

¹ See Jap. Pub. '432 Abstract.

However, as is acknowledged in the outstanding Action, Jap. Pub. '432 does not describe or suggest the inorganic resist layer including an incomplete oxide of tungsten and molybdenum in a ratio of 80 to 20 and including 60 percent atomic oxygen, as is recited in amended Claim 1.

Nevertheless, the outstanding Action cites Kouchiyama, Chaiken or Jap. Pub. '988 as curing the deficiencies of Jap. Pub. '432 with regard to the claimed invention.

With regard to the Kouchiyama reference, Applicants respectfully submit that this reference is not prior art to the present application. Specifically, as is noted in MPEP §706.02(f)(1)(I)(C)(2) “If the international application was filed on or after November 29, 2000, but did not designate the United States or **was not published in English under PCT Article 21(2)**, do **not** treat the international filing date as a U.S. filing date. In this situation, do **not** apply the reference as of its international filing date, its date of completion of the 35 U.S.C. 371(c)(1), (2) and (4) requirements, or any earlier filing date to which such an international application claims benefit or priority.” (emphasis added).

In the present case, the Kouchiyama reference has no §102(e) filing date as the international application (PCT/JP03/001886) was not published in English under PCT Article 21(2) (note: the IA was published in Japanese) and thus the Kouchiyama reference is only available as of the publication date of September 2, 2004. Thus, Applicants respectfully request that the rejection under 35 U.S.C. §103(a) based on Kouchiyama be withdrawn.

With regard to the Jap. Pub. '988 and Chaiken references, the outstanding Action asserts that these references each disclose inorganic resists that “include the instant metal and oxygen.” Applicants respectfully traverse this assertion and submit that neither Jap. Pub. '988 nor Chaiken describes or suggests WMoO anywhere in the respective reference.

Thus, Applicants note that an inorganic resist layer including an incomplete oxide of tungsten and molybdenum in a ratio of 80 to 20 and including 60 percent atomic oxygen

would not be obvious to one skilled in the art based on the disclosure of either Jap. Pub. '988 or Chaiken, at least, because these references never describe or suggest an incomplete oxide of tungsten *and* molybdenum.

Accordingly, Applicants respectfully submit that Claims 1 and 5, and claims depending respectfully therefrom, patentably distinguish over Jap. Pub. '432 and Chaiken considered individually or in any combination.

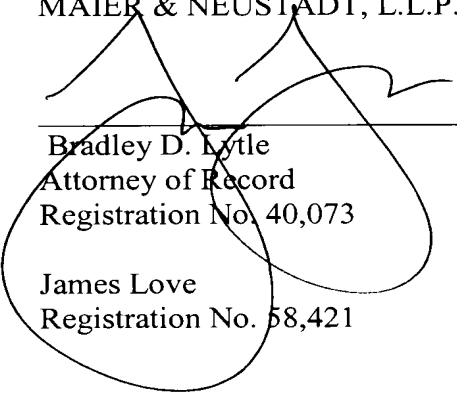
Consequently, in light of the above discussion the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/09)



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

James Love
Registration No. 58,421